

REMARKS

Since the Examiner did not mention whether the claim amendment of the response filed 1/24/2006 were entered, Applicant amends the claims in the present response with the assumption that they were not and the amendment language herein is structured accordingly.

Claims 1-13 and 17 are canceled due to restrictions imposed by the Examiner and required to be withdrawn from consideration. Independent claim 13 has been canceled and claim 14 (which depended from claim 13) is amended to incorporate the limitations of independent claim 13 and that that backing construction outer layer has a breathable material. Support for the amendment can be found in the specification, e.g., in the original claims and in Fig. 2. Claim 15 is amended to depend on claim 14 instead of claim 13 due to cancellation of claim 13. New claims 18-31 are added. Support for the newly added claims can be found throughout the disclosure of the application, for example, in the drawings, the original claims, and in the specification. For example, paragraph [00030] contains description related to the outer layer not being permanently clear, paragraphs [00032] to [00037] contain description related to the secondary drug-containing reservoir; paragraph [00043] contains description that the secondary drug-containing reservoir contains antagonist and that the base layer is impermeable to the antagonist; and [00045] contains description of the outer layer related to rate control. No new matter is added in the amendment or the new claims. Thus, claims 14-16, and 18-31 are pending.

Telephone Interview

Applicant notes with appreciation the courtesy extended to Applicant's attorney, Philip Yip, in the telephone interview of March 31, 2006. During the telephone interview, the various restriction requirement categories were discussed, including putting certain features into Markush groups and others into dependent claims.

Election/Restrictions

The Examiner imposed restriction requirements, as already mentioned in the previous response, on four categories: I. Outer layer; II. Tie layer structure; III. Reservoir; and IV. Release controlling means.

As the undersigned attorney mentioned in the telephone interview, Applicant is interested in prosecuting the invention related to currently presented independent claim 14. Applicant hopes that dependent claims depending on claim 14 will also be examined and respectfully request help from the Examiner to select the right categories to achieve that goal.

35USC §112 first paragraph rejection

Claims 14-16 were rejected as based on a disclosure that is not enabling under 35USC §112 first paragraph. Insofar as the rejection is maintained over the amended claims, Applicant respectfully traverses the rejection. Applicant has put the features related to outer layer rate controlling and the base layer as not allowing release of the antagonist in the dependent claims. Thus, withdrawal of the rejection is respectfully requested.

Claims 14-16 were rejected as failing to comply with the written description requirement based on 35USC §112 first paragraph. As Applicant stated in the response filed 1/24/2006, "outer layer is an antagonist release rate controlling means and antagonist is not releasable through the base layer" is well supported in the description, e.g., paragraphs [00034], [00043], and [00045]. Thus, withdrawal of the rejection is respectfully requested.

35USC §101 rejection

Claims 14-16 were rejected under 35USC §112 first paragraph because the Examiner asserted that the disclosed invention is inoperative and therefore lacks utility. As Applicant stated in the response filed 1/24/2006, at least one utility of the antagonist is for deterring abuse, such as a person trying to ingest the drug material in the device or to solvent-extract the abusable drug from the device. Thus, withdrawal of the rejection is respectfully requested.

CONCLUSION

Applicant is eager to move the substantive examination forward and respectfully requests the Examiner's help to move past the restriction stage. Applicant submits the pending claims are novel and nonobvious over prior art and comply with the requirements of 35 USC §101 and §112. The examination and passage to allowance of the pending claims are respectfully requested. An early Notice of Allowance is therefore earnestly solicited. Applicant invites the Examiner to contact the undersigned at (650) 564-7054 to clarify any unresolved issues raised by this response.

The Commissioner is hereby authorized to charge any additional fees associated with this paper or during the pendency of this application, or credit any overpayment, to Deposit Account No. 10-0750.

Respectfully submitted,



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